

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

In re:

THE FINANCIAL OVERSIGHT AND
MANAGEMENT BOARD FOR PUERTO RICO,

as representative of

THE COMMONWEALTH OF PUERTO RICO, *et al.*,

Debtors.¹

PROMESA
Title III

No. 17 BK 3283-LTS

(Jointly Administered)

HON. WANDA VÁZQUEZ GARCED (in her official
capacity), and THE PUERTO RICO FISCAL
AGENCY AND FINANCIAL ADVISORY
AUTHORITY,

Plaintiffs/Counterclaim-
Defendants,

v.

THE FINANCIAL OVERSIGHT AND
MANAGEMENT BOARD FOR PUERTO RICO,

Defendant/Counterclaim-
Plaintiff.

Adv. Pro. No. 20-00080-LTS

**THE GOVERNMENT’S STATEMENT OF SUPPORT FOR COOPERATIVA DE
FARMACIAS PUERTORRIQUEÑAS’S SECOND MOTION REQUESTING LEAVE TO
FILE AN AMICUS BRIEF AND FOR AMICUS STATUS**

¹ The Debtors in these Title III cases, along with each Debtor’s respective Title III case number listed as a bankruptcy case number due to software limitations and the last four (4) digits of each Debtor’s federal tax identification number, as applicable, are the (i) Commonwealth of Puerto Rico (the “Commonwealth”) (Bankruptcy Case No. 17-BK-3283 (LTS)) (Last Four Digits of Federal Tax ID: 3481); (ii) Puerto Rico Sales Tax Financing Corporation (“COFINA”) (Bankruptcy Case No. 17-BK-3284 (LTS)) (Last Four Digits of Federal Tax ID: 8474); (iii) Puerto Rico Highways and Transportation Authority (“HTA”) (Bankruptcy Case No. 17-BK-3567 (LTS)) (Last Four Digits of Federal Tax ID: 3808); and (iv) Employees Retirement System of the Government of the Commonwealth of Puerto Rico (“ERS”) (Bankruptcy Case No. 17-BK-3566 (LTS)) (Last Four Digits of Federal Tax ID: 9686); (v) Puerto Rico Electric Power Authority (“PREPA”) (Bankruptcy Case No. 17-4780 (LTS)) (Last Four Digits of Federal Tax ID: 3747); and (vi) Puerto Rico Public Buildings Authority (“PBA”) (Bankruptcy Case No. 19-BK-5233-LTS) (Last Four Digits of Federal Tax ID: 3801) (Title III case numbers are listed as Bankruptcy Case numbers due to software limitations).

To the Honorable United States District Judge Laura Taylor Swain:²

The Government respectfully submits this statement of support for Coopharma’s Motion.

As a cooperative with around 600 community-based member pharmacies in Puerto Rico, Coopharma offers a unique perspective on Act 82’s effects on the pharmaceutical market in Puerto Rico. *See* Motion ¶¶ 1, 5. Coopharma’s mission includes promoting “the purchase and distribution among the Puerto Rico citizenry of medicines and drugs at affordable prices.” Brief at 3. Coopharma therefore has a deep understanding of Puerto Rico’s competitive market for drugs and therapeutics, including the effects of regulations on consumers, insurance providers, and its own member pharmacies. *See id.* at 4–6.

Coopharma explains that it supported the enactment of Act 82 because, as its member pharmacies experienced, the lack of regulations for PBMs and PBAs led to “higher costs to the patient-consumer and lack of access to certain medications” while “pharmacies end[ed] up paying more for the acquisition of drugs than what the[y] can really charge the patient, resulting in an economic loss to the small business pharmacy operator.” *Id.* at 4–5. In particular, Coopharma advocated for Act 82 to “energize commerce within the health care industry” by promoting “transparency” among PBAs and PBMs, insurance providers, and consumers. *Id.* at 6. The Brief thus offers a perspective distinct from what either the Government or the Oversight Board provides, because it explains from firsthand experience how Act 82 helps “protect the small business pharmacy owners to guarantee their survival, as well as the recipient patient,” by

² This statement refers to (i) the Governor of the Commonwealth of Puerto Rico as the “Governor”; (ii) the Puerto Rico Fiscal Agency and Financial Advisory Authority as “AAFAF”; (iii) the Governor and AAFAF as the “Government”; (iv) the duly enacted law of the Commonwealth, Act No. 82 of 2019 as “Act 82”; (v) Pharmacy Benefit Managers as “PBMs”; (vi) Pharmacy Benefit Administrators as “PBAs”; (vii) Cooperativa de Farmacias Puertorriqueñas as “Coopharma”; (viii) Coopharma’s Notice of Appearance and Second Motion Requesting Leave to File an Amicus Brief and for Amicus Status filed on November 24, 2020 (Case No. 17-3283, ECF No. 15238) as the “Motion”; and (ix) Coopharma’s proposed *amicus* brief (Case No. 17-3283, ECF No. 15238-1) as the “Brief.” Unless otherwise specified, all emphasis is added and all quotations, citations, and internal quotation marks are omitted.

increasing transparency, preventing exploitation of patients, and promoting healthy and free market practices. *Id.* at 5–7.

Coopharma’s direct experience in Puerto Rico’s market for medications and therapeutics will assist the Court in evaluating the effects of its decision regarding Act 82, and will not duplicate the perspectives of any party. For these reasons, the Government supports Coopharma’s Motion.

[Remainder of page intentionally left blank.]

Dated: December 7, 2020
San Juan, Puerto Rico

Respectfully submitted,

/s/ William J. Sushon

John J. Rapisardi
William J. Sushon
Amber L. Covucci
(Admitted *Pro Hac Vice*)
O'MELVENY & MYERS LLP
7 Times Square
New York, New York 10036
Tel: (212) 326-2000
Fax: (212) 326-2061

-and-

Peter Friedman
(Admitted *Pro Hac Vice*)
1625 Eye Street, NW
Washington, D.C. 20006
Tel: (202) 383-5300
Fax: (202) 383-5414

*Attorneys for Governor Vázquez Garced and
the Puerto Rico Fiscal Agency and Financial
Advisory Authority*

/s/ Luis C. Marini Biaggi

Luis C. Marini-Biaggi
USDC No. 222301
Email: lmarini@mpmlawpr.com

Carolina Velaz-Rivero
USDC No. 300913
Email: cvelaz@mpmlawpr.com

MARINI PIETRANTONI MUÑIZ LLC
250 Ponce de León Ave., Suite 900
San Juan, Puerto Rico 00917
Tel: (787) 705-2171
Fax: (787) 936-7494

*Co-attorneys for Governor Vázquez Garced
and the Puerto Rico Fiscal Agency and
Financial Advisory Authority*

CERTIFICATE OF SERVICE

I hereby certify that, on this same date, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notifications of such filing to all CM/ECF participants in this case.

/s/ Luis C. Marini-Biaggi
Luis C. Marini-Biaggi